

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

JUSTIN CRUZ DELOS SANTOS
18 Dorado Terrace #23
San Francisco, CA 94112-1767

Registered Nurse License No. 755603

RESPONDENT

Case No. 2013-321

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about October 25, 2012, Complainant Louise R. Bailey, M.Ed.,RN, in her official capacity as the Executive Officer of the Board of Registered Nursing, Department of Consumer Affairs, filed Accusation No. 2013-321 against Justin Cruz Delos Santos (Respondent) before the Board of Registered Nursing. (Accusation attached as Exhibit A.)

2. On or about July 21, 2009, the Board of Registered Nursing (Board) issued Registered Nurse License No. 755603 to Respondent. The Registered Nurse License was in full force and effect at all times relevant to the charges brought herein and will expire on June 30, 2013, unless renewed.

3. On or about October 25, 2012, Respondent was served by Certified and First Class Mail copies of the Accusation No. 2013-321, Statement to Respondent, Notice of Defense, Request for Discovery, and Government Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record which, pursuant to Business and Professions Code section 136 and Title 16, California Code of Regulation, section 1409.1, is required to be reported and maintained with the Board, which was and is:

18 Dorado Terrace #23

San Francisco, CA 94112-1767.

1 4. Service of the Accusation was effective as a matter of law under the provisions of
2 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
3 124.

4 5. On or about November 6, 2012, the signed Certified Mail Receipt was returned to our
5 office indicating a delivery date of October 29, 2012.

6 6. Business and Professions Code section 2764 states:

7 The lapsing or suspension of a license by operation of law or by order or decision of
8 the board or a court of law, or the voluntary surrender of a license by a licensee shall not deprive
9 the board of jurisdiction to proceed with an investigation of or action or disciplinary proceeding
10 against such license, or to render a decision suspending or revoking such license.

11 7. Government Code section 11506 states, in pertinent part:

12 (c) The respondent shall be entitled to a hearing on the merits if the respondent files a
13 notice of defense, and the notice shall be deemed a specific denial of all parts of the accusation
14 not expressly admitted. Failure to file a notice of defense shall constitute a waiver of respondent's
15 right to a hearing, but the agency in its discretion may nevertheless grant a hearing.

16 8. Respondent failed to file a Notice of Defense within 15 days after service of
17 the Accusation upon him, and therefore waived his right to a hearing on the merits of Accusation
18 No. 2013-321.

19 9. California Government Code section 11520 states, in pertinent part:

20 (a) If the respondent either fails to file a notice of defense or to appear at the hearing, the
21 agency may take action based upon the respondent's express admissions or upon other evidence
22 and affidavits may be used as evidence without any notice to respondent.

23 10. Pursuant to its authority under Government Code section 11520, the Board after
24 having reviewed the proof of service dated October 25, 2012, signed by Kami Pratab, finds
25 Respondent is in default. The Board will take action without further hearing and, based on
26 Accusation No. 2013-321 and the documents contained in Default Decision Investigatory
27 Evidence Packet in this matter which includes:
28

- 1 Exhibit 1: Pleadings offered for jurisdictional purposes; Accusation No. 2013-321,
2 Statement to Respondent, Notice of Defense (two blank copies), Request
3 for Discovery and Discovery Statutes (Government Code sections
4 11507.5, 11507.6 and 11507.7), proof of service; and if applicable, mail
5 receipt or copy of returned mail envelopes;
- 6 Exhibit 2: License History Certification for Justin Cruz Delos Santos, Registered
7 Nurse License No. 755603;
- 8 Exhibit 3: Court and Arrest Records;
- 9 Exhibit 4: Affidavit of Kami Pratab;
- 10 Exhibit 5: Declaration of costs by Office of the Attorney General for prosecution of
11 Case No. 2013-321.

12 The Board finds that the charges and allegations in Accusation No. 2013-321 are separately and
13 severally true and correct by clear and convincing evidence.

14 11. Taking official notice of Certification of Board Costs and the Declaration of Costs by
15 the Office of the Attorney General contained in the Default Decision Investigatory Evidence
16 Packet, pursuant to the Business and Professions Code section 125.3, it is hereby determined that
17 the reasonable costs for Investigation and Enforcement in connection with the Accusation are
18 \$722.50 as of January 3, 2013.

19 DETERMINATION OF ISSUES

20 1. Based on the foregoing findings of fact, Respondent Justin Cruz Delos Santos has
21 subjected his following license(s) to discipline:

22 a. Registered Nurse License No. 755603

23 2. The agency has jurisdiction to adjudicate this case by default.

24 3. The Board of Registered Nursing is authorized to revoke Respondent's license(s)
25 based upon the following violations alleged in the Accusation, which are supported by the
26 evidence contained in the Default Decision Investigatory Evidence Packet in this case.

27 a. Violation of Business and Professions Code section 2761(a) - Unprofessional
28 Conduct.

1 b. Violation of Business and Professions Code section 2761(f) - Conviction
2 substantially related to the qualifications, functions and duties of a
3 registered nurse.

4 c. Violation of Business and Professions Code section 2762(b) - Use of controlled
5 substance or alcohol to an extent or in a manner dangerous or injurious to
6 oneself and others.

7 d. Violation of Business and Professions Code section 2762(c) - Criminal
8 conviction involving alcoholic beverages or controlled substances.

9 //

10 //

11 //

12 //

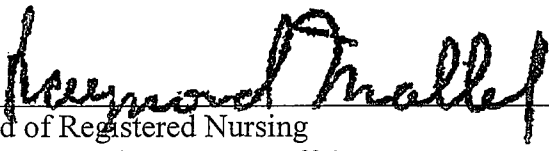
ORDER

IT IS SO ORDERED that Registered Nurse License No. 755603, heretofore issued to Respondent Justin Cruz Delos Santos, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on MAY 2, 2013.

It is so ORDERED APRIL 2, 2013.



Board of Registered Nursing
Department of Consumer Affairs
State of California

Attachment:

Exhibit A: Accusation No. 2013-321

Exhibit A

Accusation No. 2013-321

1 KAMALA D. HARRIS
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 CHAR SACHSON
Deputy Attorney General
4 State Bar No. 161032
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-5558
6 Facsimile: (415) 703-5480
Attorneys for Complainant

7
8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. 2013-321

11 **JUSTIN CRUZ DELOS SANTOS**
12 **18 Dorado Terrace, #23**
13 **San Francisco, Ca 94112-1767**

ACCUSATION

14 **Registered Nursing License No. 755603**

15 **Respondent.**

16
17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
20 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
21 Consumer Affairs.

22 2. On or about July 21, 2009, the Board of Registered Nursing issued Registered
23 Nursing License Number 755603 to Justin Cruz Delos Santos (Respondent). The Registered
24 Nursing License was in full force and effect at all times relevant to the charges brought herein and
25 will expire on June 30, 2013, unless renewed.

26 **JURISDICTION**

27 3. This Accusation is brought before the Board of Registered Nursing (Board),
28 Department of Consumer Affairs, under the authority of the following laws. All section

1 references are to the Business and Professions Code unless otherwise indicated.

2 4. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent
3 part, that the Board may discipline any licensee, including a licensee holding a temporary or an
4 inactive license, for any reason provided in Article 3 (commencing with section 2750) of the
5 Nursing Practice Act.

6 5. Section 2761 of the Code states:

7 "The board may take disciplinary action against a certified or licensed nurse or deny an
8 application for a certificate or license for any of the following:

9 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

10 ...

11 "(f) Conviction of a felony or of any offense substantially related to the qualifications,
12 functions, and duties of a registered nurse, in which event the record of the conviction shall be
13 conclusive evidence thereof.

14 ..."

15 6. Section 2762 of the Code states:

16 "In addition to other acts constituting unprofessional conduct within the meaning of this
17 chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this
18 chapter to do any of the following:

19 "(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed
20 physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or
21 administer to another, any controlled substance as defined in Division 10 (commencing with
22 Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as
23 defined in Section 4022.

24 "(b) Use any controlled substance as defined in Division 10 (commencing with Section
25 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in
26 Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to
27 himself or herself, any other person, or the public or to the extent that such use impairs his or her
28 ability to conduct with safety to the public the practice authorized by his or her license.

1 "(c) Be convicted of a criminal offense involving the prescription, consumption, or
2 self-administration of any of the substances described in subdivisions (a) and (b) of this section,
3 or the possession of, or falsification of a record pertaining to, the substances described in
4 subdivision (a) of this section, in which event the record of the conviction is conclusive evidence
5 thereof.

6 "(d) Be committed or confined by a court of competent jurisdiction for intemperate use of
7 or addiction to the use of any of the substances described in subdivisions (a) and (b) of this
8 section, in which event the court order of commitment or confinement is prima facie evidence of
9 such commitment or confinement.

10 "(e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any
11 hospital, patient, or other record pertaining to the substances described in subdivision (a) of this
12 section."

13 7. Section 490 of the Code provides, in pertinent part, that a board may suspend or
14 revoke a license on the ground that the licensee has been convicted of a crime substantially
15 related to the qualifications, functions, or duties of the business or profession for which the
16 license was issued.

17 8. Section 2764 of the Code provides, in pertinent part, that the expiration of a license
18 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the
19 licensee or to render a decision imposing discipline on the license.

20 9. Section 118, subdivision (b), of the Code provides that the expiration of a license
21 shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period
22 within which the license may be renewed, restored, reissued or reinstated.

23 10. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
24 administrative law judge to direct a licensee found to have committed a violation or violations of
25 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
26 enforcement of the case.

27 ///

28 ///

1 FIRST CAUSE FOR DISCIPLINE
2 (CRIMINAL CONVICTIONS)

3 11. Respondent is subject to disciplinary action under sections 2761(a), 2761(f), 2762(c),
4 and/or 490 in that on or about August 31, 2006, in a criminal proceeding entitled *The People of*
5 *the State of California v. Justin Cruz Delossantos*, in Santa Mateo County Superior Court, Case
6 Number SM346719A, Respondent was convicted by his plea of nolo contendere of violating
7 Vehicle Code section 23152(a) (driving while under the influence of alcohol). Respondent was
8 sentenced to serve four days in jail and probation for three years, and ordered to pay fines in the
9 amount of \$1,501.00. The circumstances of the conviction are that on or about July 27, 2006,
10 Respondent was arrested for drunk driving after being stopped for failing to stop at a stop sign in
11 San Mateo County.

12 12. Respondent is further subject to disciplinary action under sections 2761(a), 2761(f),
13 2762(c), and/or 490 in that on or about October 27, 2010, in a criminal proceeding entitled *The*
14 *State of Washington v. Justin C. Delossantos*, in the District Court of the State of Washington, in
15 and for the County of Franklin, Case Number XY-0396229, Respondent was convicted by his
16 plea of guilty of driving while under the influence of alcohol. Respondent was sentenced to serve
17 365 days in jail, 363 days of which were suspended, and probation for five years, and ordered to
18 pay fines in the amount of \$1,298.50. The circumstances of the conviction are that on or about
19 August 15, 2010, Respondent was stopped for driving with his high beams on in Franklin County.
20 He failed field sobriety tests, refused a breath test, and was arrested for driving under the
21 influence.

22
23 SECOND CAUSE FOR DISCIPLINE

24 (USING ALCOHOL IN A MANNER DANGEROUS TO SELF OR OTHERS)

25 13. Respondent is subject to disciplinary action under sections 2761(a) and/or 2762(b), in
26 that he used alcohol in a manner dangerous to himself or others. The circumstances are that on or
27 about July 27, 2006, Respondent was arrested for drunk driving after being stopped for failing to
28 stop at a stop sign in San Mateo County.

1 14. Respondent is further subject to disciplinary action under sections 2761(a) and/or
2 2762(b), in that he used alcohol in a manner dangerous to himself or others. The circumstances
3 are that on or about August 15, 2010, Respondent was stopped for driving with his high beams on
4 in Franklin County. He failed field sobriety tests, refused a breath test, and was arrested for
5 driving under the influence.

6 THIRD CAUSE FOR DISCIPLINE

7 (UNPROFESSIONAL CONDUCT)

8 15. Respondent is subject to disciplinary action under section 2761(a), in that he acted
9 unprofessionally, as alleged above in paragraphs 11. through 14. above.

10 PRAYER

11 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
12 and that following the hearing, the Board of Registered Nursing issue a decision:

- 13 1. Revoking or suspending Registered Nursing License Number 755603, issued to Justin
14 Cruz Delos Santos;
- 15 2. Ordering Justin Cruz Delos Santos to pay the Board of Registered Nursing the
16 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
17 Professions Code section 125.3;
- 18 3. Taking such other and further action as deemed necessary and proper.
- 19
20

21 DATED: October 25, 2012

Louise R. Bailey
LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

26 SF2012402563
27 10967413.doc
28